

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**SANTIAGO GOMEZ, HERNAN GOMEZ, and  
MANUEL PANDO,**

Plaintiffs,

v.

**WIEN CAFE BAKERY a/k/a Win Café Bakery,  
HYEA SUG KIM, an individual, and  
TAE KWON KIM, an individual,**

Defendants.

Case No. 1:12-cv-02144-JBW-JMA

**DECLARATION OF PENN DODSON, ESQ.**

PENN DODSON, an attorney admitted to practice law in the United States District Court, Eastern District of New York, affirms the following to be true under the penalties of perjury:

1. I am a counsel to the law firm of Goldberg & Dohan, P.C., attorneys of record for Plaintiffs, and as such, am familiar with the facts and circumstances of this action by virtue of a review of the file maintained in this office.
2. I submit this Affirmation in support of the request for the Clerk's Certificate of Default made by Plaintiffs against Defendant Wien Cafe Bakery and Hyea Sug Kim based on these Defendants' failure to appear and/or Answer the Summons and Complaint.
3. The Plaintiff's application should be granted because:
  - (a) Defendants Wien Cafe Bakery and Hyea Sug Kim were served on August 1, 2012;
  - (b) Defendants' time to answer has expired;
  - (c) Defendants have defaulted in answering
4. This is an action for damages related to unpaid and underpaid wages owed to the plaintiffs pursuant to the FLSA and NYLL.



5. This action was commenced with the filing of a Summons and Complaint as against defendants Wien Cafe Bakery, Hyea Sug Kim, and Tae Kwon Kim on April 30, 2012. [Dkt. 1].
6. On August 1, 2012 the Summons and Complaint were properly served on defendant Wien Cafe Bakery and Hyea Sug Kim, by delivering such Summons and Complaint to Hyea Sug Kim, who accepted the complaints on behalf of both herself and the corporation [Dkt. 5,6].
7. On August 15, 2012, I received a voicemail from an insurance adjuster regarding this case. When I returned his call later that day, he stated that the served defendants had contacted him to determine whether there was coverage; he said that based on the allegations in the complaint he did not believe the claims were covered and informed me that he had advised the defendants to seek legal counsel.
8. To date, Defendants Wien Cafe Bakery and Hyea Sug Kim have failed to respond to Plaintiffs' Summons and Complaint, have not filed an answer to the Complaint and have not moved for a protective order within the time prescribed by law.
9. Accordingly, the time for Wien Cafe Bakery and Hyea Sug Kim to enter an answer, responsive pleading or otherwise move has passed, and Wien Cafe Bakery and Hyea Sug Kim is in default. Intervention of the Court is required.
10. Plaintiffs have voluntarily dismissed defendant Tae Kwon Kim from the action, without prejudice
11. No party hereto is an infant or incompetent, nor is engaged in military service, or a member of the military.



WHEREFORE, it is respectfully requested that this Court grant Plaintiffs' request to enter Default against defendants Wien Cafe Bakery and Hyea Sug Kim, for failure to respond to their Summons and Complaint.

Dated: Brooklyn, New York  
August 25, 2012



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PENN DODSON, ESQ.  
Counsel for Plaintiffs

